

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,

PETITIONER,

VS.

STEPHEN D. PITMAN AND
HERITAGE TITLE, INC.,

RESPONDENTS.

CONSENT ORDER

CAUSE NO. A-1493

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Christine Neighbors, and Stephen D. Pitman and Heritage Title, Inc., ("Respondents") mutually and individually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondents pursuant to Neb.Rev.Stat. §44-101.01, §44-4047 et seq., and the Title Insurance Agents Act at §44-19,106 et seq.

2. Stephen D. Pitman, ("Respondent Pitman"), is a licensed insurance agent whose registered address with the Department of Insurance is 2727 W. 2nd Street, Suite 107, Hastings, NE 68901.

3. Heritage Title, Inc., ("Respondent Heritage"), is a licensed title insurance agency with a registered address of 2727 W. 2nd Street, Suite 107, Hastings, NE 68901. Stephen D. Pitman is listed as the designated agent for Heritage Title, Inc., which,

pursuant to Neb. Rev. Stat. §44-4053(2)(b), is a licensed agent responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a Petition and Notice of Hearing styled State of Nebraska Department of Insurance vs. Stephen D. Pitman and Heritage Title, Inc., on March 27, 2003. A copy of such Petition and Notice of Hearing was served upon the Respondents by certified mail at the address of 2727 West 2nd Street, Suite 107, Hastings, NE 68901.

2. The Petition alleges Respondents violated Neb. Rev. Stat. §44-4059(1)(b) which provides that the Director may revoke or suspend a producer's license and/or impose a fine if the licensee violates any insurance law or rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director. Respondents violated this section by failing to comply with the requirements of the Title Insurance Agent Act, Neb. Rev. Stat. §44-19,106 et seq., and the Insurers Examination Act, Neb. Rev. Stat. §44-5901 et seq., and the Insurance Producers Licensing Act, Neb. Rev. Stat. §44-4047 et seq. Specifically, the following sections of those laws:

- a. §44-19,109(3) which requires all title insurance agents and any bona fide employee of the title insurance agent handling escrow or security deposits to maintain a surety bond, letter of credit, certificate of deposit, or deposit of cash or securities in an amount not less than \$100,000 covering all of the title insurance agent's employees.
- b. §44-19,114(3) which requires the title agent to render accounts to the title insurer detailing all transactions and remit all funds due under the contract required under §44-19,114(1) to the title insurer within the time specified by the underwriting contract.
- c. §44-19,114(4) which requires all funds collected for the account of a title insurer by a title insurance agent to be held in a fiduciary capacity in a qualified financial institution.

- d. **§44-5902(2)(c)** which requires officers, directors, employees, and agents of the company being examined to facilitate the examination and aid in the examination so far as it is in their power to do so.
- e. **§44-4610** which prohibits an insurance producer from acting as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer.

3. The Petition alleges Respondents violated Neb. Rev. Stat. §44-4059(1)(d)

which provides that the Director may revoke or suspend a producer's license and/or impose a fine if the licensee improperly withholds, misappropriates, or converts any money or property received in the course of doing insurance business.

4. The Petition alleges Respondents violated Neb. Rev. Stat. §44-4059(1)(h)

which provides that the Director may revoke or suspend a producer's license and/or impose a fine if the licensee uses fraudulent, coercive, or dishonest practices, or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

5. The Petition alleges Respondents violated statutes referenced in the above paragraphs 2, 3, and 4 as a result of the following conduct:

- a. Respondent Pitman is a title agent handling escrow or security deposits. As such, Respondent Pitman is required to maintain a bond pursuant to Neb. Rev. Stat. §44-19,109(3). Respondent Pitman terminated his bond on or about April 18, 1998 but continues to handle escrow funds.
- b. On or about February 2, 2000, the Department received an inquiry regarding Respondents' escrow services and whether Respondent Pitman maintained the required security pursuant to Neb. Rev. Stat. §44-19,109(3). Respondent Pitman represented to the Department that he did not offer escrow services. This statement was false.
- c. On or about March 28, 2000, the Department was engaged in a market conduct examination of Respondents. The Department again questioned whether Respondents offered escrow services. Respondent

Pitman represented to the examiners that he did not perform escrows or closings which is a false statement. By making this false statement, Respondent Pitman, as an officer and designated agent of the agency examined, failed to aid the Department in the examination.

- d. During the period of time from February 29, 2000 to October 31, 2002, Respondents reported to the insurer that Respondents had issued 784 title insurance policies on behalf of the insurer. Prior to issuing the policies, Respondents received payment from consumers for the insurance premium for the 784 title insurance policies. For the 784 policies, the insurer is owed net premium of \$54,484.08. On or about February 17, 2002, Respondents paid \$11,507.32 leaving a balance due to the insurer of \$43,076.76. To date, Respondents have not remitted the balance to the insurer. Thus, Respondents failed to remit premium to the insurer on a monthly basis as required pursuant to Neb. Rev. Stat. §44-19,114(3).
- e. Respondent Pitman failed to maintain the insurer's premium funds in a fiduciary capacity and misappropriated said funds when Respondent Pitman utilized the insurer's funds for personal expenses.
- f. Respondent Pitman's agent appointment with insurer was terminated by the insurer on or about January 16, 2002. Following that date, Respondent Pitman continued to issue title insurance commitments in the insurer's name without being appointed with the insurer.

6. Respondents were informed of their right to a public hearing. Respondents waive that right and enter into this Consent Order freely and voluntarily. Respondents understand and acknowledge that by waiving the right to a public hearing, Respondents also waive the right to confront witnesses, the production of evidence, and judicial review.

7. Respondents deny the allegations in Paragraph 5 a, b, c, and f. Respondents neither admit nor deny the allegations in Paragraph 5 d and e.

CONCLUSIONS OF LAW

Respondents' conduct as referenced above in Paragraph 5 d and e constitutes violations of the previously referenced sections of the Insurance Producers Licensing Act,

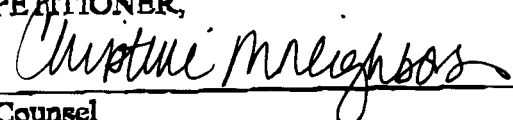
§44-4047 et seq., the Title Insurance Agent Act, §44-19,106 et seq., and the Insurer's Examination Act, §44-5901 et seq.

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent Stephen D. Pitman that Respondent Pitman consents to the voluntary surrender and revocation of his insurance producer license and that Respondent Pitman, as designated agent and President of Respondent Heritage Title, Inc., further consents to the voluntary surrender and revocation of the title insurance agency license. Within ten (10) days from the date the Director of Insurance signs this Consent Order, Respondent Pitman shall mail his original title insurance agent license and the insurance agency license of Heritage Title, Inc., to the Department. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondents or the Department to make application for such further orders as may be necessary.


In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing his or her signature below.

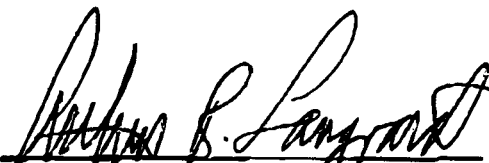
STATE OF NEBRASKA
DEPARTMENT OF INSURANCE,
PETITIONER,


Counsel

STEPHEN D. PITMAN,
RESPONDENT,

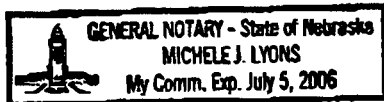

Stephen D. Pitman

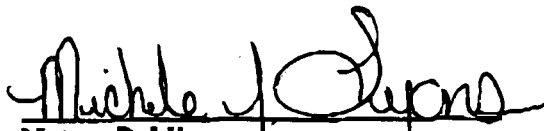

Heritage Title, Inc.
By: Stephen D. Pitman, President


Respondents' Legal Counsel

STATE OF NEBRASKA)
COUNTY OF Adams) ss.

On this 14th day of May, 2003, Stephen D. Pitman personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Notary Public

CERTIFICATION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Stephen D. Pitman and Heritage Title, Inc., Cause No.: A-1493.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE


L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to Respondents' legal counsel, Arthur Langvardt, Langvardt & Valle, P.C., 422 N. Hastings Ave., #105, Hastings, NE 68901-5108 on this 4th day of May, 2003, by certified mail, return receipt requested.

